

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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QUINTIN PETTWAY,

Plaintiff(s),

v.

SOONHEE KIM, et al.,

Defendant(s).

Case No. 2:23-CV-604 JCM (EJY)

ORDER

Presently before the court is plaintiff Quintin Pettway's motion to remand this case to state court. (ECF No. 5). Defendants Soon Kim and Sung Kim did not file a response, and the time to do so has now passed.

"Federal courts are courts of limited jurisdiction,' possessing 'only that power authorized by Constitution and statute.'" *Gunn v. Minton*, 568 U.S. 251, 256 (2013) (quoting *Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377 (1994)). Pursuant to 28 U.S.C. § 1441(a), "any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending." 28 U.S.C. § 1441(a).

A plaintiff may challenge removal by timely filing a motion to remand. 28 U.S.C. § 1447(c). "The removal statute is strictly construed against removal jurisdiction." *Provincial Gov't of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1087 (9th Cir.2009). "The defendant bears the burden of establishing that removal is proper." *Id.*

28 U.S.C. § 1332 allows federal courts to exercise diversity jurisdiction in civil actions between citizens of different states. *See* 28 U.S.C. § 1332(a). However, the forum defendant rule

1 confines removal based on diversity jurisdiction to “instances where no defendant is a citizen of
2 the forum state.” 28 U.S.C. § 1441(b); *see also Lively v. Wild Oats Markets, Inc.*, 456 F.3d 933,
3 939 (9th Cir. 2006).

4 Plaintiff’s complaint identifies himself as a citizen of Florida and defendants as citizens of
5 Nevada, and defendants do not dispute those facts. (ECF No. 1-1 at 2). Thus, since defendants
6 are citizens of the forum state, removal was improper, and this matter should be remanded. *See*
7 18 U.S.C. § 1441(b)(2).

8 Accordingly,

9 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff’s motion to
10 remand (ECF No. 5) be, and the same hereby is, GRANTED.

11 IT IS FURTHER ORDERED that the clerk shall REMAND this case back to the Eighth
12 Judicial District Court for Clark County, Nevada, and CLOSE this case.

13 DATED June 2, 2023.

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16 UNITED STATES DISTRICT JUDGE
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